INDUSTRIAL DEVELOPMENT PROCEDURES

HAMILTON-WENTWORTH INDUSTRIAL SECTOR STUDY

REPORT NO. 5

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1.0 INTRODUCTION

The purpose of this report is to describe and briefly assess the development administration processes applicable to industrial proposals in the Region of Hamilton-Wentworth. These procedures provide the framework in which any industrial development strategy must fit.

Development control procedures apply to industrial development when: land is divided, the land use changes significantly, a new building is constructed, or an existing building is expanded or renovated. The conditions under which the various development controls apply are defined in Provincial legislation, primarily in the Planning Act, the Ontario Building Act, the Municipal Act, the Niagara Escarpment Planning and Development Act, and in other legislation and associated regulations.

Controls exist to ensure that all development, including industrial, meets minimum Provincial standards and is consistent with both Area and Regional municipal long-term goals and objectives. This enables municipalities to plan for future industrial development by providing an adequate supply and variety of suitably located industrial land.

In the Region of Hamilton-Wentworth, there are a number of processes which affect the location, size, type and physical design of industrial development. The procedural approvals which could be required for an industrial proposal include:

- an amendment to the Hamilton-Wentworth Official Plan;
- an amendment to the Area Municipal Official Plan;
- approval of a plan of subdivision;
- a consent to subdivide land;
- an amendment to a zoning by-law;
- a minor variance to a zoning by-Law;
- site plan approval;
- a Niagara Escarpment Development Permit;
- a building permit approval; and,
- various approvals or permits related to servicing, access, setbacks and/or utilities.

One or more of these processes may be required depending on the complexity of the development proposed and the degree to which it conforms with existing plans, policy, and regulations.

All Municipalities have Official Planning responsibilities. The Region is responsible for subdivision and condominium approval and is in the process of seeking final approval powers for area municipal Official Plans. The area municipalities are responsible for zoning by-laws, site plan control and building permits. In some areas where a unique Provincial interest is identified, such as the Niagara Escarpment or the Parkway Belt West, the Province has retained a direct control over development administration. Decisions in the development control processes made by municipal bodies can be appealed and re-evaluated by a Provincially-appointed body (such as the Ontario Municipal Board).

2.0 SUMMARY OF THE DEVELOPMENT CONTROL PROCESS AND RELATED PROCEDURES

The approvals required for an industrial project vary depending on location and existing status of the lands proposed for development. For some proposals one type of approval may be necessary while others may require several approvals, some of which can be processed concurrently. Certain conditions may be placed on the application by an approval authority which must be satisfied before final approval can be given.

Each of the development controls has different processing requirements. Some variation exists in the processing of the same type of development control application between the area municipalities.

A summary follows: The major development control processes which may effect industrial development are described in detail in Appendices A to H of this report.

2.1 Official Plans

In the Region of Hamilton-Wentworth there are separate official plans for both Area and Regional levels of government. The Hamilton-Wentworth Official Plan is the senior planning document encompassing the entire Region and providing general policy direction and guidance to future development in the Region and its six Area Municipalities. Each of the area municipalities has its own official plan which must conform to the Regional Plan and provides more detailed policy applicable to the individual needs of the area municipality.

Any industrial proposal which does not comply with either the Regional or area municipal plan will require an amendment before it can proceed. Depending on the nature of the proposal either one or both of the plans may have to be amended. Where an amendment to the local plan is necessary, it is processed by the Area Municipality while the Region processes any amendments to its plan. In either case there is consultation between both levels of government.

The processing of amendments to official plans involves: adherence to legislative requirements for public meetings, circulation of the amendment to various commenting agencies, notice of the amendment and a decision making process involving the respective Area Municipal or Regional Councils.

The final decision for approval or refusal of an amendment currently rests with the Ministry of Municipal Affairs or the Ontario Municipal Board through referrals or appeals. Plans are in progress to allow for delegation of the final approval power for area Municipal Official Plans to the Region from the Province.

Due to the general nature of official plans, the far reaching affects of plan policies and extensive circulation and public involvement requirements, this control process generally involves the largest time periods for processing. The average time for processing an amendment is approximately 5 months with extensions to one year or more should Ontario Municipal Board hearings be required.

2.2 Plans of Subdivision

When a proposal for industrial development involves the division of land, either a plan of subdivision or consent is required. The general rule is that a plan of subdivision is warranted when more than three new lots are being created.

The processing of plans of subdivision has been delegated by the Province to the Region of Hamilton-Wentworth and therefore approval rests with Regional Council. As with most other development control processes the proposed plan is circulated for comments, a report prepared by Planning Staff and the proposal is presented to Regional Council in a public forum at which Council will make a decision on the plan. The position of the Area Municipality holds considerable weight in this process.

Should the proposal receive draft approval there are usually a number of conditions related to matters such as services, phasing, drainage, grading or other concerns from the commenting agencies, imposed on the application which must be met before final approval is given and the plan registered. Draft approval normally involves a subdivision agreement between the owner/developer and the municipality to ensure that all of the undertakings proposed in the subdivision are completed to municipal standards. The content of the agreement generally expands on the matters dealt with through conditions of draft approval, by including further provisions relating to servicing, financing, property maintenance and other concerns. The nature of the agreement varies depending on the location and type of industrial proposal.

Subdivision agreements for industrial proposals are common but are not applied by the Region or the City of Hamilton. Although the Region and the City of Hamilton do not enter into subdivision agreements for industrial subdivision, a portion of the costs of providing services is recovered through application of local improvement agreements as provided for under the Local Improvement Act. By this process, developers are charged for internal services installed by the municipality.

Plans of subdivision are also subject to referral and appeal which can result in Ontario Municipal Board hearings. These would extend the processing time well beyond the average 6 month timespan typical for uncontested plans of subdivision in the Region.

2.3 Consents

For industrial proposals where a plan of subdivision is not required, but land must be divided to accommodate development it is possible to apply for a consent through the Regional Land Division Committee. The Committee has the authority to approve or refuse applications to convey, lease or mortgage property.

This process includes public notice and circulation of the application, a public hearing and an appeal procedure which would culminate in an Ontario Municipal Board hearing. In all cases the proposal must be consistent with the Official Plan and zoning by-laws of the municipality.

Approval of an application usually results in various conditions which are similar to, but fewer than, those applied through the plan of subdivision process, and must be fulfilled before final approval is given to the application.

2.4 Zoning By-laws

In addition to conformity to other development controls any industrial development must comply with the appropriate provisions of the area municipal zoning by-law. A proposal which does not conform requires an amendment to the zoning by-law.

A zoning by-law is a very detailed document which regulates the use of land and the size, location and design of buildings or structures.

Rezoning applications are circulated to neighbouring landowners as well as public and government agencies. Any comments received on an application are considered along with a planning staff report by the Area Municipal Council which is responsible for approving or refusing these types of applications.

Appeals of Council decisions are possible through the Ontario Municipal Board, which holds a public hearing. The final decision is made by the presiding Board member(s).

2.5 Minor Variance

A proposal which is consistent with the general intent but does not meet the specific requirements of a Zoning By-law, will require approval of a minor variance(s). This procedure involves an application to the Committee of Adjustment of the Area Municipality involved.

As the term "minor" implies the variance cannot be a significant departure from by-law regulations. In most cases, minor variances are required for industrial proposals to adjust the land uses permitted within a specific district or to modify building setbacks, height or other site specific requirements of the by-law. If a requested variance is considered a substantial change from by-law requirements, an amendment to the by-law would be necessary.

In the minor variance process, similar to other control procedures; various conditions can be attached to the approval of an application, which must be fulfilled before the approval is finalized.

2.6 Site Plan Control

Through site plan control, the area municipalities have the authority to control site specific details concerning items such as the construction, alteration or placement of a structure, access, landscaping and buffering.

In Hamilton-Wentworth most industrial proposals are subject to site plan control. However, in the City of Hamilton, only prestige industrial proposals are subject to site plan control, all other types of industrial development being exempt. In Dundas, industrial developments by public agencies and small industrial additions ($92m^2$ or less) are also exempt from site plan control.

Conditions of site plan control are implemented through an agreement between the land owner and the area municipality. The agreement then may be registered against the title of land to ensure that all conditions are met regardless of the ownership of the land.

2.7 Niagara Escarpment Development Permits

A Niagara Escarpment Commission (N.E.C) Development Permit is necessary for any industrial proposal within the N.E.C. Development Control Area. The Clappison Corners Industrial Business Park is the only large scale industrial area located within the development control area.

Under the current legislation the N.E.C. development permit supercedes the area municipal zoning by-laws. However, the comments received from the area municipality in which the proposal is located, the Region and other agencies are considered by the N.E.C. before granting a development permit. In addition, all other development controls are still applicable.

As with other development controls the N.E.C. may apply certain conditions which must be met before the development permit will be issued.

2.8 Building Permits

New industrial buildings, renovations and additions require that a building permit be issued by the Area Municipal Building Department.

Permits are issued by the Chief Building Officer after a review and circulation of the detail drawings of the proposal. Additional drawings such as a site plan, drainage plan or survey plan may also be required.

In order to receive a building permit the proposal must comply to the Zoning by-laws and the Regional and Area Municipal Official Plans. In addition, site plan agreements and other approvals and permits from various agencies, if required, must be completed before the issuance of a building permit.

2.9 ADDITIONAL PERMITS AND APPROVALS

In addition to the major development controls described above, there are other permits and approvals which may be required for an industrial development proposal before a building permit can be issued. The exact permits and approvals necessary for an industrial development will vary depending on the nature and location of the development.

2.9.1 Regional Engineering

Engineering permits may be required for a proposal which will utilize the existing sewer and water systems or are located adjacent to a Regional road. These include:

(a) Sewer Permit

A sewer permit is required to allow an industry to connect with the existing sewer system. The Region requires the applicant to submit sewer plans for review.

The usual processing time for sewer permit applications is two days.

The cost of the permit for sanitary sewers is $38.00 in the City of Hamilton and $32.00 in the remaining area municipalities. Each area municipality is responsible for any charges related to storm sewers and there are additional charges for storm sewer catchbasins and connections.

(b) Water Permit

A water permit is required to allow an industry to tie into the existing water system. A water permit is required before construction can proceed. To obtain a water permit, the Region requires the applicant to submit watermain plans for review.

If the required watermain is under 2" in diameter, the cost of the permit is $97.00, and the processing time is approximately two days. If the required watermain is greater than 2" in diameter, the cost of the permit is $271.00. and the processing takes approximately three weeks.

(c) Setback or Building Line Permit

A setback or building line permit is required for new industrial buildings adjacent to Regional roads. The Region requires a copy of the site plan in order to approve the proposed setback.

The cost of the permit is $1.00 and the application is usually processed in a few minutes.

(d) Access Permit

An access permit is required for an entrance to an industrial building from a Regional road. The Region requires the applicant provide a site plan for the proposal.

The cost of the access permit is $25.00 and the application is usually processed the same day as received. If a culvert is required at the entrance, an additional $500.00 to $600.00 will be charged. In addition, the applicant will be charged $35.00 per meter if curb cuts are necessary.

2.9.2 Ministry of Transportation and Communications

There are a number of permits required before an industrial development can begin construction adjacent to a Provincial highway. These include:

(a) Encroachment Permit

An encroachment permit allows the applicant to undertake work on a Ministry of Transportation and Communications (M.T.C.) road right-of-way including installing a culvert, watermain, or sewers. The applicant is required to submit four copies of a detailed site plan and profile showing specifications of the nature of the encroachment.

An application for encroachment permit must be sent to the Ministry's Offices in Toronto, and it usually takes three to six weeks for processing depending on the utilities which must be relocated.

The cost of the permit is $85.00 for private applicants, or $56.00 for municipal applicants.

(b) Entrance Permits

Industrial developments adjacent to and having access from M.T.C. roads require entrance permits in order to construct an entrance, curbs or gutters, change or relocate an entrance, change the use of an entrance, or construct a temporary entrance.

The applicant is required to fill out the necessary application and forward it to the M.T.C. offices in Toronto for processing.

The cost of the application is $79.00. The application for entrance permit can usually be processed in three to six weeks. However, additional processing time will be required if M.T.C. has plans to realign or widen the road.

(c) Building and Land Use Permit

A Building and Land Use Permit is required to erect, alter, or repair an industrial building and/or to use land for industrial purposes on a property within 150 feet of the right-of-way of an M.T.C. road or within 300 feet of where another road intersects an M.T.C. road. The application must comply to the area municipal zoning by-laws before a permit can be issued.

M.T.C. requires that the applicant submit two sets of detailed site plans along with the application. A drainage plan may also be required.

The application costs $56.00 and usually takes two days to be processed. However, more time for processing is required if M.T.C. has plans to realign or widen the road.

(d) Sign Permit

A sign permit is required to erect a sign for an industrial development along an M.T.C. road. The applicant must submit a sketch or picture of the sign showing its location on the property and relationship to the road.

The cost of the sign permit can vary from $28.00 to $288.00 depending on the value of the sign. The application can be processed the same day as received.

2.9.3 Ministry of Labour

Ministry of Labour approval of industrial development construction plans is required before the area municipality can issue a building permit. The Ministry of Labour review of the plans with respect to the internal layout of the building and opportunities for worker safety.

The applicant is required to complete an application and submit three copies of the structural drawings to the local office of the Ministry of Labour.

The cost of processing is $1.00 per every $1,000.00 of estimated construction costs with a minimum cost of $5.00 and a maximum cost of $5,000.00. The application is usually processed during the appointment with the applicant.

2.9.4 Regional Health Services Department

Approval for the installation of septic systems is required for dry industrial development in the Region. Most industries install a Class 5 system, which is a holding tank. The Health Services Department must approve the septic system and issue a certificate of approval before a building permit can be issued. The applicant is required to submit a site plan and a letter from the contracted sewage hauler for the holding tank confirming the contract with the applicant.

The cost of processing the application is $100.00. An application for certificate of approval is usually processed in seven to ten days.

2.9.5 Conservation Authority Approval

Conservation Authority approval is required if an industrial development is proposing to:

- place or remove fill material within areas designated by the Conservation Authority;
- erect, alter, or add to any structure within an area susceptible to flooding; and/or,
- straighten, change, divert, or alter an existing watercourse.

There are three Conservation Authorities that have jurisdiction over industrially designated lands in Hamilton-Wentworth: the Niagara Peninsula Conservation Authority, the Hamilton Region Conservation Authority, and Halton Region Conservation Authority.

The appropriate Conservation Authority approval for work is usually granted in conjunction with the processing of official plan amendments, rezonings, or site plan agreements.

The requirements for each Conservation Authority follow:

(a) Hamilton Region Conservation Authority

The Hamilton Region Conservation Authority will issue a permit to allow:

- placement or removal of fill material;
- altering, adding to, or renovating an existing structure;
- erecting a new structure;
- installing a septic system;
- constructing a dike, levee, retaining wall, etc.;
- altering an existing watercourse; and/or,
- constructing a pond, lake, or reservoir.

The applicant must submit site plans for the proposal along with the application.

Processing of the application takes approximately four weeks. There are no costs for processing the application.

b) Halton Region Conservation Authority

The Halton Region Conservation Authority will issue permits to:

- place or remove fill;
- construct, add, or renovate a structure; and/or,
- divert, dam, widen, deepen, or alter a watercourse.

The applicant must submit four copies of site plans showing the proposal along with the application.

An application for permit will take approximately two months to be processed. There are no costs for processing the application.

(c) Niagara Peninsula Conservation Authority

The Niagara Peninsula Conservation Authority will issue permits to:

- place or remove fill;
- construct, add, or renovate a structure; and/or,
- alter a watercourse.

An application for permit may take up to one month for processing depending on when the next meeting of the Authority is scheduled. Once approved, the permit is issued the next day. There is no cost for processing the application.

2.9.6 Ontario Hydro

Approval of plans for building and wiring is required from Ontario Hydro for industrial electrical work. Ontario Hydro approval for electrical work is usually given before the area municipality issues a building permit. In order to approve the wiring, Ontario Hydro requires that the applicant submit one set of electrical drawings. Two sets are required if the proposal includes a high voltage installation.

The application for building and wiring approval can usually be processed in two weeks by the local office. However, if the proposal includes a high voltage installation, the application must be processed in the Willowdale office and usually takes three weeks. Inspection fees vary with the complexity of the electrical work to be done.

Once Ontario Hydro has reviewed the electrical plans, a letter is sent to the applicant approving the plans or outlining the changes that must be made before the plans can be approved.

2.9.7 Hamilton Harbour Commissioners

The Hamilton Harbour Commissioners review and approve site and construction plans before industrial development proceeds on lands owned by the Commissioners and leased by the developer. Before development can proceed, the Harbour Commissioners' Port Engineer assesses site plans for drainage, parking, setbacks, building siting, and other site specific concerns.

Application for development is evaluated on an individual basis. The Commission is presently in the process of establishing development control by-laws, similar to the requirements in the area municipal control by-laws.

There is no cost for processing a site plan by the Harbour Commission. The time required for processing the site and construction plans varies depending on the complexity of the application. A simple proposal may be processed immediately. Once the site plan is approved, the Harbour Commission provides the applicant with a written consent for development.

If the development proposes construction on water, the developer must also make an application to Transport Canada for approval under the Navigable Water Act.

2.9.8 Area Municipal Culvert Permits

Permits to install a culvert at a driveway entrance are required by Ancaster, Dundas, Flamborough, Glanbrook, and Stoney Creek for industrial developments in areas not serviced by storm sewers. In the City of Hamilton, all industrial areas are serviced by storm sewers.

In a new plan of subdivision, culverts, if required, are addressed in the subdivision agreements.

If the culvert is for an industrial proposal not within a plan of subdivision, it is installed by the municipality and the applicant is usually required to prepay the costs. The cost of installation varies from area municipality to area municipality depending on the diameter and length of the culvert). The time involved for installation of the culvert also varies from less than one week to two months depending on the area municipality.

2.9.9 Lot Levies

Presently, there are no lot levies charged by the Region of Hamilton-Wentworth or the Area Municipalities for any type of industrial development. However, the Town of Ancaster does impose charges to the industrial developers if their proposal requires sewer or water services that are larger than normally required.

2.9.10 Additional Costs

In addition to the various permits and approvals there are other costs which the proponent may be required to incur before or during construction. The required costs vary between the area municipalities, and may include charges for:

- road cuts to install services;
- storm sewer inspections;
- sidewalk cuts; and,
- curb cuts.

3.0 OBSERVATIONS RESPECTING DEVELOPMENT CONTROL ACTIVITY FOR INDUSTRIAL LANDS IN HAMILTON-WENTWORTH

It is impossible to accurately assess the true impact of the various development control processes without a complete analysis of other major locational factors such as land costs and availability, servicing, accessible market, transportation facilities, labour and other similar matters. This section of the report outlines the development control activities affecting industrial proposals in this region, briefly comparing the various control processes in the area municipalities.

Development control activities for the industrial sector in the Region of Hamilton-Wentworth, were surveyed for the period 1982 to 1985 and the results shown on Table 1. As expected, the City of Hamilton, the largest area municipality in the Region, experienced the most industrial development activity (349 applications) covering such areas as official plan amendments, rezonings, variances, subdivisions, severances and building permits. The Town of Flamborough, with 219 applications and the City of Stoney Creek with 180 applications were also relatively active processing industrial proposals. The Towns of Ancaster and Dundas and the Township of Glanbrook each processed between 20 and 30 industrial applications.

The probability of double counting actual development proposals is high since a single proposal could require applications within each of the processes. The most appropriate identifier of industrial activity over the time period, is the building permit category. These permits represent individual applications for new industrial buildings or renovations or additions to existing structures, thus eliminating the possibility of multiple applications. The City of Hamilton issued the most building permits (234); Flamborough (187) and Stoney Creek (88) followed, while Ancaster, Dundas and Glanbrook processed a total of 59 permits.

The industrial activity in the Region, as illustrated in the building permit figures indicates significant industrial activity in Hamilton, Flamborough and Stoney Creek.

TABLE 1

ACTIVITY CHART FOR INDUSTRIAL LANDS

1982 TO MID 1985

Municipality	Rezoning Applications		Official Plan Amendments		Minor Variances		Subdivision			Severances			Building
	Received	Approved	Received	Approved	Received	Approved	Registered	Draft	Proposed	Applic.	Deferred	Refused	Permits
Ancaster	0	0	1	0	0	0	0	4	0	8	0	1	13
Dundas	0	0	0	0	3	3	0	0	0	3	0	0	14
Flamborough	8	7	2	0	2	2	0	1	0	19	0	3	187
Glanbrook	6	0	4	0	3	2	0	3	2	9	1	0	32
Hamilton	19	18	3	3	23	23	2	1	1	66	0	0	234
Stoney Creek	5	5	1	1	30	29	1	4	0	51	4	0	88
Region	N/A	N/A	3	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

The Industrial-Business Parks throughout the Region provide prime industrial lands for development. While much of the development control process is standardized by Provincial legislation (Planning Act) there is a degree of flexibility built into the process which allows the individual municipality to adopt processing systems suitable to their specific needs and objectives. In all cases the municipality's procedures must be consistent with the intent of the applicable Provincial legislation.

The individual aspects of control processes in the area municipalities are identified in Appendices A to H as part of an overall description of the development control procedures in the Region of Hamilton-Wentworth. The text, flow charts and tables contain details of the individual processes relative to the nature of the process, timing, fees and application requirements. These features vary from municipality to municipality. In a situation where an industrial proposal requires an Official Plan amendment, rezoning, consent and a site plan, it is possible to compare the fee structures and processing times in the area municipalities.

The costs associated with processing an industrial proposal vary between municipalities. For the scenario outlined above requiring application of four control processes the City of Stoney Creek would charge a combined fee of approximately $2,675, while the fees for a similar proposal in the City of Hamilton would total about $450. The remaining area municipalities charge fees as follows: Glanbrook and Ancaster - $2,400, Flamborough - $2,300 and Dundas - $1,580.

The higher fees in Stoney Creek, Glanbrook, Ancaster and Flamborough appear to be the result of the application of a deposit agreement instead of the set fee structure used by Hamilton and Dundas. The development agreement consists of a cash deposit by the applicant which is used by the municipality to cover the costs of processing the application. If the processing costs are less than the deposit, the remainder is refunded to the applicant. When processing delays occur or additional meetings/hearing are required which result in extra costs being incurred beyond the limit of the deposit, the municipality may bill the applicant for the extra costs. The deposit agreement, although it may result in higher costs to the developer assures that the municipality's costs of processing applications are covered.

The cost of processing in all municipalities when viewed in comparison with the total costs of development appear insignificant and are not likely to influence locational decisions.

It is difficult to compare the processing times in the different municipalities because many of the processes overlap. For example, a rezoning may be processed concurrently with an official plan amendment or work may be done reviewing preliminary site plans at the same time that a rezoning is being finalized. Under these circumstances, detailed comparisons are not possible. However, in general terms there appears to be relative consistency in processing times among the area municipalities. Times for official plan amendments vary from 12 to 20 weeks (Figure A-2), rezonings from 12 to 20 weeks (Figure D-2), variances from 6 - 8 weeks (Item E-2), site plans from 4 to 8 weeks (Figure F-2) and building permits from 2 - 8 weeks (Figure H-2). Although some of the differences in processing times may appear substantial, the individual variations are usually offset by time savings in other control processes so that the differences in total processing time for industrial proposals among the six area municipalities are not significant.

4.0 CONCLUSION:

Decisions concerning industrial location are based on a wide range of factors, including such matters as land costs, access to markets, servicing, proximity of transportation facilities, availability of labour and many other economic issues. While these factors are generally recognized as the most important aspects of industrial development the common element in any proposal is the development control process. Whether the industrial proposal involves the establishment of a new large industry or simply the minor expansion of an existing factory, some control or approval process will be necessary.

The need for development controls stems from the desire to ensure that future industrial development will be consistent with the long term community goals, that it meets acceptable building, design and environmental standards, and that sufficient and appropriately serviced land will be set aside for required development.

The existing development control processes in the Region of Hamilton-Wentworth are summarized in Section 2 and described in some detail in the Appendices of this report. Each process is specifically designed to regulate a particular aspect of an industrial proposal such as its type, timing, design and physical layout. Differences in control processes which do exist between the area municipalities are generally minor or are offset by other elements.

As a common aspect of industrial development the control or approval process must function effectively and efficiently to reduce the possibilities of unnecessary delay or costs which might negatively impact an industrial proposal. Most municipalities strive to achieve a streamlined process free of excessive "red tape" which allows for innovative industrial proposals within a framework of acceptable minimum standards providing protection for and compatibility with existing development and the Community. The development administration processes which exist in this Region are sufficiently standardized to be administered providing needed consistency but also a degree of flexibility to permit change allowing adaptation to the changing trends in and requirements of industrial development.

APPENDIX A

OFFICIAL PLANS

A. OFFICIAL PLANS

The Planning Act, 1983 defines an official plan as:

> "A document approved by the Minister, containing objectives and policies established primarily to provide guidance for the physical development of a municipality or a part thereof or an area that is without municipal organization, while having regard to relevant social, economic and environmental matters."

In Hamilton-Wentworth there is a Regional Official Plan and an Official Plan for each of the area municipalities.

According to the provisions of the Planning Act, no municipal by-law, including zoning by-laws, can be approved or public work authorized that does not conform to the official plan of the municipality. In addition, the official plans and zoning by-laws of area municipalities must conform with the Regional Official Plan.

Although the official plans are designed to provide some flexibility; changes in economic and social factors in the municipality may warrant amendment of the plan. Any proposal which is contrary to the policies of the Official Plan of the municipality cannot be approved unless the Official Plan can be amended in a manner that permits this development. An Official Plan Amendment (O.P.A.) may be submitted to a municipal council by any person.

A proposed industrial development may require an Amendment to an Area Municipal Official Plan and/or the Regional Official Plan if the proposed development does not conform with the land use designations and policies of one or both documents. This may be initiated in conjunction with a proposal to amend the Area Municipal Zoning By-Law.

A.1 The Process

An amendment to an Official Plan must follow the same procedure as required for the original plan.

The general O.P.A. process for both Regional and Area Municipal O.P.A's is shown in Figure A.1. Figure A.2 highlights the timing, fee structure and requirements for each of the municipalities. The steps shown in Figure A.1 are summarized as follows:

FIG. A-2

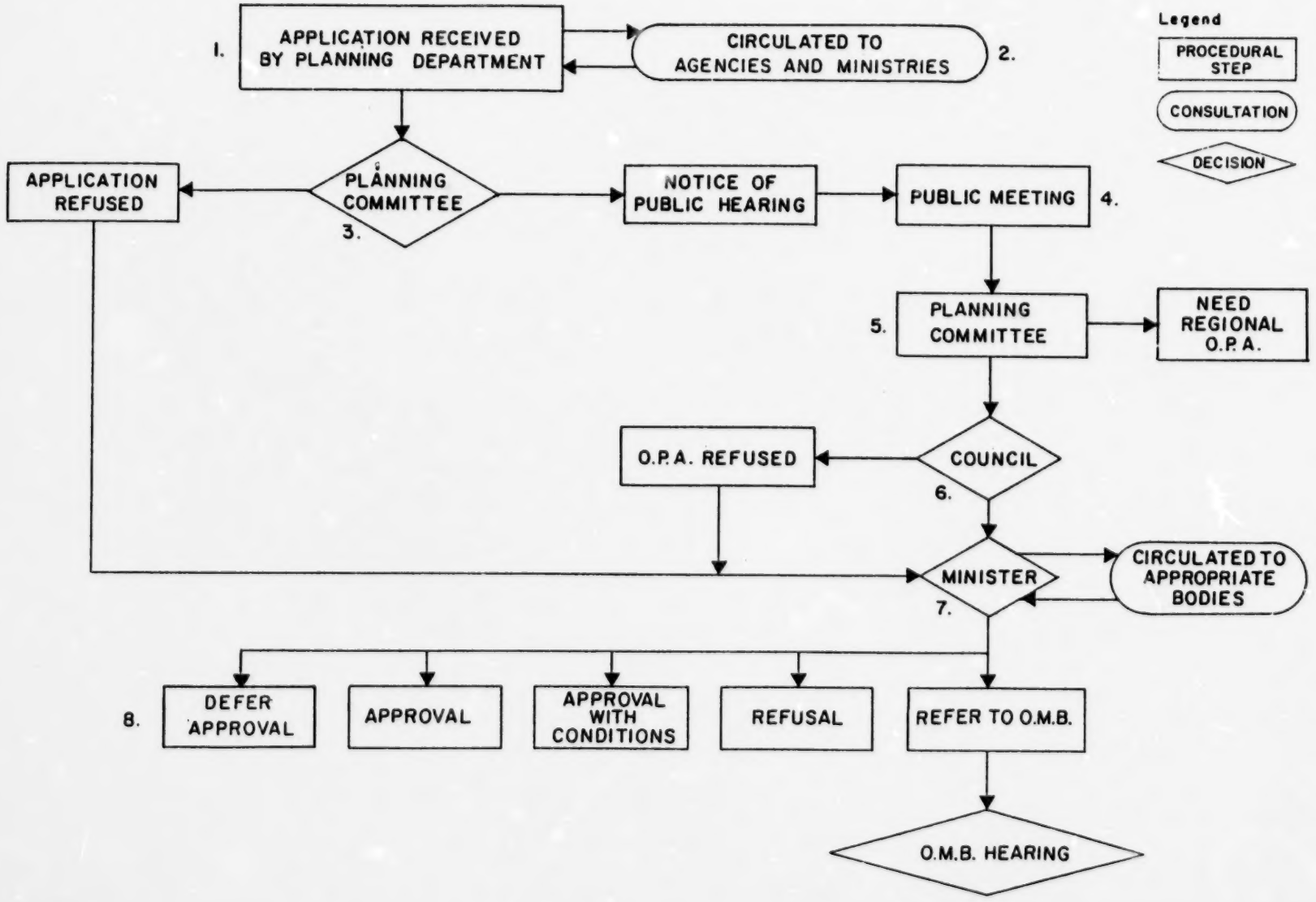
OFFICIAL PLAN - MUNICIPAL REQUIREMENTS

Area Municipality	Average Processing Time (Weeks)	Fee Structure	Application Requirements
ANCASTER	16-20	$1,000 Deposit Agreement*	2 copies of the application form 2 copies of a Survey Plan 2 copies of a large scale detail plan
DUNDAS	16-20	$500 Fee	2 copies of the application form 2 copies of a Survey Plan 2 copies of a large scale detail plan
FLAMBOROUGH	16-20	$1,500 Deposit Agreement*	2 copies of the application form 3 copies of a Survey Plan 3 copies of a large scale detail plan
GLANBROOK	16-20	$1,000 Deposit Agreement*	3 copies of the application form 3 copies of a Survey Plan 3 copies of a large scale detail plan
HAMILTON	16-20	$109 fee	2 copies of the application form 2 copies of a Survey Plan
STONEY CREEK	10-12	$1,500 Deposit Agreement*	1 copy of the application form 1 copy of a Survey Plan 1 copy of a large scale detail plan
REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH	20-30	$300 fee	1 copy of the application form Map showing the location of the affected lands

* A deposit agreement involves a cash deposit to be used by the Area Municipality to cover the cost of processing the application. Should the cost of processing be less than the deposit, the remainder is refunded to the applicant.

Figure A.1

THE OFFICIAL PLAN AMENDMENT PROCESS



1. A complete application must be submitted to the Planning Department along with:

   - o A Survey Plan showing the limits of the subject property based on an Ontario Land Surveyor's description, the ownership of lands within the limits of the subject property and all buildings and structures and their uses.

   - o A large scale detail plan of the proposed development showing the location and types of buildings, the number of dwelling units, parking and loading spaces, landscaping areas and other uses of land.

   - o A fee or a Deposit Agreement, from which the costs of processing the application through the approval process are deducted.

2. Planning Department Staff then prepare and circulate a draft O.P.A. to various departments and agencies for comment.

   The Regional Planning and Development Department is contacted with regard to every area municipal O.P.A. circulation. Other possible departments and agencies contacted may include:

   - o All Area Municipal Departments;
   - o Regional Engineering;
   - o Utility Agencies;
   - o Regional Economic Development Department;
   - o Ministry of the Environment;
   - o Conservation Authority;
   - o Ministry of Transportation and Communications;
   - o Harbour Commission;
   - o Niagara Escarpment Commission; and,
   - o Regional Health Services Department.

3. Once all necessary research has been completed and comments from the appropriate departments and agencies have been received a report is prepared and submitted along with the draft O.P.A. to the Planning Committee. The Committee decides to either proceed with or refuse the amendment.

   If the Planning Committee wishes to proceed with the O.P.A., an advertisement is placed in a local newspaper and if the amendment is site specific, all landowners within 400' (120 m.) are notified as to the time and date of a public meeting.

4. The public meeting is held with political representation, usually before Council or the Planning Committee. Both written and oral submissions regarding the O.P.A. are considered.

   Following the public meeting, Planning Staff review the submissions and may recommend changes to the draft Official Plan Amendment.

5. The Planning Committee then decides whether or not to recommend adoption of the O.P.A. If they recommend adoption a final draft of the Amendment then goes to Council for approval.

6. Council either approves or refuses the draft Amendment.

   If a proposed area municipal O.P.A. does not conform with the Regional Official Plan then a Regional O.P.A. is required. If the applicant has not applied for a Regional O.P.A., prior to approval of an O.P.A by the Area Municipality then the Area Municipal Council may make a request to the Region that such an Amendment be granted. The Regional O.P.A. process is similar to the Area Municipal O.P.A. process (See Fig. A.2).

7. If approved, a bylaw to adopt the O.P.A. is approved by Council. Notice of the decision is then sent by the Clerks Department within 15 days, to all persons, departments and agencies which had requested notice in writing and an application for approval is sent to the Minister of Housing.

   Ministry Staff then prepare a report and circulate the amendment to various departments and agencies, usually the same organizations contacted by the Planning Department of the Municipality earlier in the process.

8. The Minister may either approve the O.P.A. with or without conditions, defer approval, refuse the Amendment or refer the matter to the Ontario Municipal Board. A referral to the O.M.B. is usually the result of a written request for referral or a decision by the Minister that the O.P.A. involves a matter of provincial interest.

A.2 Timing

The average time period for processing an Official Plan Amendment from the time of receiving an application to approval by Council varies between the area municipalities, usually between 16-20 weeks.

APPENDIX B

PLANS OF SUBDIVISION

B. PLANS OF SUBDIVISION

When a property is to be divided into two or more parts, approval for the land division is required. Generally when the division involves the creation of three or more lots full subdivision approval is required.

Section 50(2) of the Planning Act, 1983 requires a proposed plan of subdivision to contain the following information:

- the boundaries of land to be subdivided;
- the location, width and name of highways abutting and within the plan;
- all land adjacent to the subdivision that is owned by the applicant;
- purpose for which the lots will be used
- existing uses of adjacent lands;
- dimension and lay out of lots;
- natural and artificial features adjacent to, or within the subdivision;
- availability and nature of domestic water supplies;
- nature and porosity of the soil;
- existing contours or elevations;
- municipal services;
- restrictive covenants or easements.

The Minister of Housing has delegated the authority to approve plans of subdivision to Hamilton-Wentworth Region. When approving a draft plan of subdivision the Region must have regard to the health, safety, convenience and welfare of the existing and future residents of the municipality.

B.1 Process

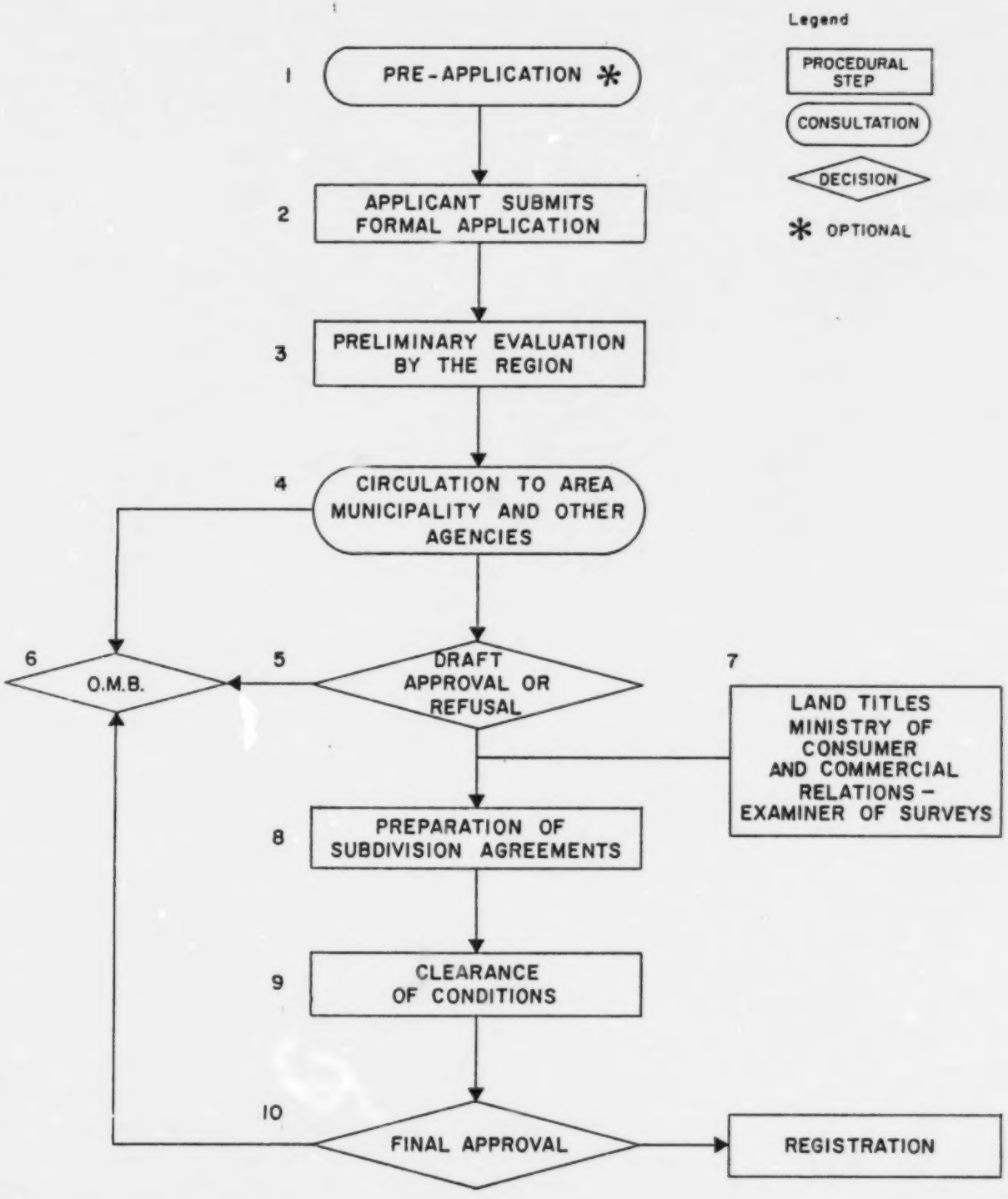
The approval process for plans of subdivision and condominiums is shown in Figure B.1 and is described as follows:

1. The pre-application stage allows the applicant to gather sufficient information on which to make a decision whether or not to make a formal application. Information the applicant will require includes:

    - The conformity of the proposal to the general intent and purpose of planning policies and with existing land use regulations as contained in:

Figure 8.1

THE SUBDIVISION APPROVAL PROCESS



(i) The Regional and Area Municipal Official Plans.
(ii) The Zoning By-law of the Area Municipality.
(iii) Other land use regulations such as the Niagara Escarpment Development Control.

- The physical constraints of the site.

- Availability of municipal services.

This information can be obtained through contact with the appropriate officials in the Planning and Engineering Departments of both the Region and the relevant Area Municipality.

2. The application form is submitted to the Planning and Development Department of the Region. The plans must meet the requirements of Sec. 50(2) of the Planning Act. One of these requirements is that the plan must be certified by an Ontario Land Surveyor. In Hamilton-Wentworth no fee is required in conjunction with a subdivision or condominium application.

3. The Planning and Development Department checks the application against Official Plan policies and ensures all relevant information has been included. If the proposal does not comply with either the Area Municipal or the Regional Official Plans, then the application cannot proceed unless an Official Plan Amendment is undertaken.

In the event that an O.P.A. has been, or will be submitted for approval by the applicant, the draft subdivision plan and the O.P.A. normally will be processed concurrently.

4. The application is then circulated to the appropriate Area Municipality and other departments and agencies.

Only those departments and agencies with a direct interest or involvement receive the draft plan for comment. The circulation list for industrial subdivision can include:

(a) <u>Provincial Agencies</u>

- Ministry of Housing
- Ministry of Transportation and Communications
- Ministry of Agriculture and Food
- Ministry of the Environment
- Ministry of Natural Resources
- Niagara Escarpment Commission
- Ministry of Citizenship and Culture

(b) Regional Departments

- o Regional Engineering
- o Regional Economic Development Dept.
- o Regional Health Services

(c) Appropriate Conservation Authority

- o Hamilton Region
- o Niagara Peninsula
- o Grand River
- o Halton Region

(d) Railways

- o C.P.R.
- o C.N.R.
- o T.H. & B.

(e) Pipeline and Utilities

- o Pipeline Companies
- o Union Gas
- o Ontario Hydro
- o Bell Canada

Each agency receiving the application for comment is given 60 days to respond. If they are unable to reply in that time frame, they must request an extension stating the reasons why it is required. Otherwise they are considered to have no objection to the proposal. If approval cannot be given within 90 days, the applicant is sent a status letter outlining the reasons for delay.

Any agency receiving a copy of the plan may suggest conditions under which it feels the plan should be approved. Major changes in a proposal may require the submission of a revised plan for recirculation. If an agency feels their objection(s) cannot be addressed by imposing conditions of approval they may recommend refusal of the draft plan.

5. The recommendations of the Area Municipality and other agencies are considered by the Regional Planning staff in their preparation of a technical report recommending either approval with conditions or refusal with reasons. The report is then considered by the Regional Planning and Development Committee which makes a recommendation to Regional Council, the approving authority.

Subject to approval by Regional Council the plan is endorsed as being draft approved by the Chairman. The draft approval is a written commitment by the approving authority that the development can proceed as long as the imposed conditions are met. On the basis of a draft approval the applicant may enter into a subdivision agreement.

6. Prior to the decision on a draft plan the Region may refer a subdivision or condominium to the Ontario Municipal Board upon request by the applicant, the Area Municipality, the circulated agencies or the general public.

   If Council denies a plan of subdivision or condominium it notifies the owner stating reasons. The owner has 60 days to request referral of the draft plan to the O.M.B. If Council approves the draft plan with or without conditions there is a 21 day appeal period in which any person who requested notice of the decision may request a referral to the O.M.B.

   If the applicant or the Area Municipality is not satisfied with the conditions imposed, a referral to the O.M.B. may be obtained by serving written notice to the Secretary of the Board at any time before the subdivision or condominium is given final approval. Requests for referrals of conditions of approval are sent to a hearing unless deemed to be frivolous in nature.

7. At some point before the final approval (Step 10) the applicant must show that the draft plan has been approved under the Land Titles Act by the Examiner of Surveys in the Ministry of Consumer and Commercial Relations. Application for Land Title is usually made as soon as possible after the draft approval stage to avoid unnecessary delays in the final approval and registration.

8. The applicant must contact the Area Municipal Engineering Departments for details on requirements for the subdivision agreement. To enter into subdivision agreements the Municipality must do the following:

   - Issue approvals for engineering drawings and specifications;
   - Prepare reports requesting approval of cost sharing and authority to enter into agreements;
   - Prepare agreements and forward copies to the applicant (or agent);

- o Execute the subdivision agreement, deposit cash payments and securities along with tax certificates, execute Certificates of Title, execute Notice of Application to Register Agreement and executed Easements or Deeds (if required).

Among the conditions of approval is a standard requirement that the applicant enter into a subdivision agreement with the Area Municipality regarding the sharing of costs arising from the construction of public services.

9. The applicant must satisfy the conditions imposed at the time of draft approval before final approval can be given.

   When conditions have been satisfied, the agencies send letters of clearance to the Regional Planning and Development Department describing how the conditions have been satisfied. The applicant must submit final plans along with clearance from the Land Titles Office to the Regional Planning and Development staff for approval.

10. The Region reviews the final plans checking for compliance with the approved draft plan. If all is in order the plans are endorsed by the Regional Chairman and sent for registration to the Land Titles Office.

B.2 Timing

An appropriate process time from the pre-application stage to final approval is difficult to estimate. While a time period of 6 or 7 months could be estimated from when application is received to draft approval (based on legislated circulation and appeal time periods) the onus is on the applicant to get the final plan approved. Often market or other conditions result in lengthy delay in the time between draft plan approval and registration.

Under the new Planning Act (1983) all subdivisions and condominiums draft approved after August 1, 1983, may remain draft approved indefinitely. Prior to this date draft approvals were granted for three years. Plans draft approved before August 1, 1983, but not given final approval within the three year limitation, are usually given draft plan extensions of one or two year periods, if requested.

B.3 Conditions of Approval

The Region of Hamilton-Wentworth requires that a series of standard and specific conditions be met prior to the final approval of an industrial subdivision. These are specified as conditions of draft approval. In addition, a number of other requirements may be specified by means of subdivision agreement to meet the concerns of the regional municipality, the local municipality and other government agencies. Subdivision agreements are not required by the Region or the City of Hamilton for Industrial plans of subdivision; instead, servicing arrangements are provided through the Local Improvements Act.

B.3.1 Draft Approval

The following standard conditions of draft approval are common to most industrial subdivisions proposed in the Region:

- Allowances and road widenings must be dedicated as public highway on the final plan;
- Streets are to be named to the satisfaction of the local municipality and the regional municipality;
- All proposals must conform with the area municipal zoning by-law save for those lands within the Niagara Escarpment Development Control Area;
- Easements as may be required for utility purposes shall be granted to the appropriate authority;
- The owner of the property in question is required to agree in writing to satisfy all requirements, financial and otherwise, of the area municipality and the Region;

The conditions of draft approval require that all agencies which have requested the imposition of such conditions advise the Region in writing that these conditions have been carried out to their satisfaction, prior to the signing of the final plan.

In addition, the Region, based on the area municipality's comments may require that the applicant's surveyor provide a certified list showing the net area and frontage of each lot and block in the final plan and that certain blocks as shown on the plan be conveyed to the local municipality for park purposes pursuant to The Planning Act (for industrial plans of subdivision up to 2% of the Plan's Area).

The Region may require that the phasing of the project be to its satisfaction, prior to the granting of final approval.

Under some circumstances a storm drainage and lot grading plan may be required. More detailed storm drainage reports are occasionally requested by the local municipality, as are conditions specifying the details of berming and fencing on the site.

Other requirements include: that any dead end or open side of road allowances be terminated in 0.3 metre reserves conveyed to the local municipality and held until required for future extension of road allowances or development of abutting lands and that temporary turning circles be provided on the dead end streets shown on the plan.

Other commenting agencies may request that identified concerns be addressed as the conditions of draft approval. These concerns are difficult to categorize as they are dependent upon site specific chacteristics. Agencies which from time to time specify conditions include the Ontario Ministry of the Environment, the Ontario Ministry of Natural Resources, Ontario Hydro, the Ontario Ministry of Transportation and Communications, the Ontario Ministry of Housing, the Regional Health Unit, the Niagara Escarpment Commission, and the Conservation Authority.

Conditions of draft approval regarding hard services vary from application to application, depending on the site characteristics and geographic location. A requirement that all lots be serviced with municipal storm and sanitary sewers, and piped water is usual. In the case of lands which have been allocated future servicing capacity, a condition may be imposed requiring that such a plan not be registered until the construction of these services is approved and financial agreements have been executed. The lack of such services does not always preclude draft approval being granted, since other methods of servicing may be acceptable.

B.3.2 Subdivision Agreements

Subdivision agreements regarding servicing, financial arrangements, property maintenance and other related concerns may be entered into. These agreements may be registered against the property to ensure all subsequent owners of the property are subject to the agreement. The Region and the City of Hamilton do not enter into Subdivision agreement for industrial plans for subdivision.

Subdivision agreements usually address the following issues in the agreement:

- o engineering services;
- o roadway and sidewalks;
- o curbs and gutters;
- o street lighting;
- o signs and municipal numbers;
- o hydro electric and other utilities;
- o lighting;
- o trees and sodding;
- o fencing;
- o grading;
- o property maintenance
- o snow removal
- o building and occupancy permits;
- o financial arrangements, and;
- o taxes

B.3.3 Local Improvement Act

For industrial subdivisions proposed by private developers, internal watermains, sanitary sewers and, in the case of the City of Hamilton, storm sewers, are constructed by the Region. The costs of such construction are charged back to the owner of the property under the provisions of the Local Improvement Act.

No other financial arrangements or agreements are entered into by the Region. The Region does not charge any form of lot levy.

The policy of the Region is to recover a portion of the money which the Region has spent on contruction of services, as provided for under the Local Improvement Act as follows:

@ $ 61 per metre of frontage for watermains

@ $115 per metre of frontage for sanitary sewers.

@ $151 per metre of frontage for storm sewers in a combined trench with the sanitary sewers, in the City of Hamilton only.

In the City of Hamilton local internal services such as roads and sewers are also charged back to the developers under the local Improvements Act. In the other Area Municipalities finances agreements are arranged through subdivision agreements.

APPENDIX C

CONSENTS TO SEVER PROPERTY

C. CONSENTS

Consent administration compliments the subdivision planning process. Consents are generally required when one property is divided into two or three separate parcels. A landowner wishing to sell, mortgage, or otherwise grant (i.e. through a lease, easement or right of way) the use of, or right in part of his land for a period of twenty-one years or more, must make an application for consent.

In Hamilton-Wentworth applications for consent are made to the Regional Land Division Committee. The Committee when reviewing application for consent gives regard to those same matters which are considered by the Region when approving a plan of subdivision and has similar powers as the Region with respect to plans of subdivision.

Conditions may be attached to the granting of consent which must be met before a certificate of consent can be issued.

C.1 Process

The process for consent illustrated in Figure C.1 and summarized as follows:

1. Applicants must complete and submit an Application for Consent to the Secretary Treasurer of the Region's Land Division Committee.

2. Each application must be accompanied by:

   - 2 copies of an illustration plan showing all the lands owned by the applicant and the lands being conveyed.

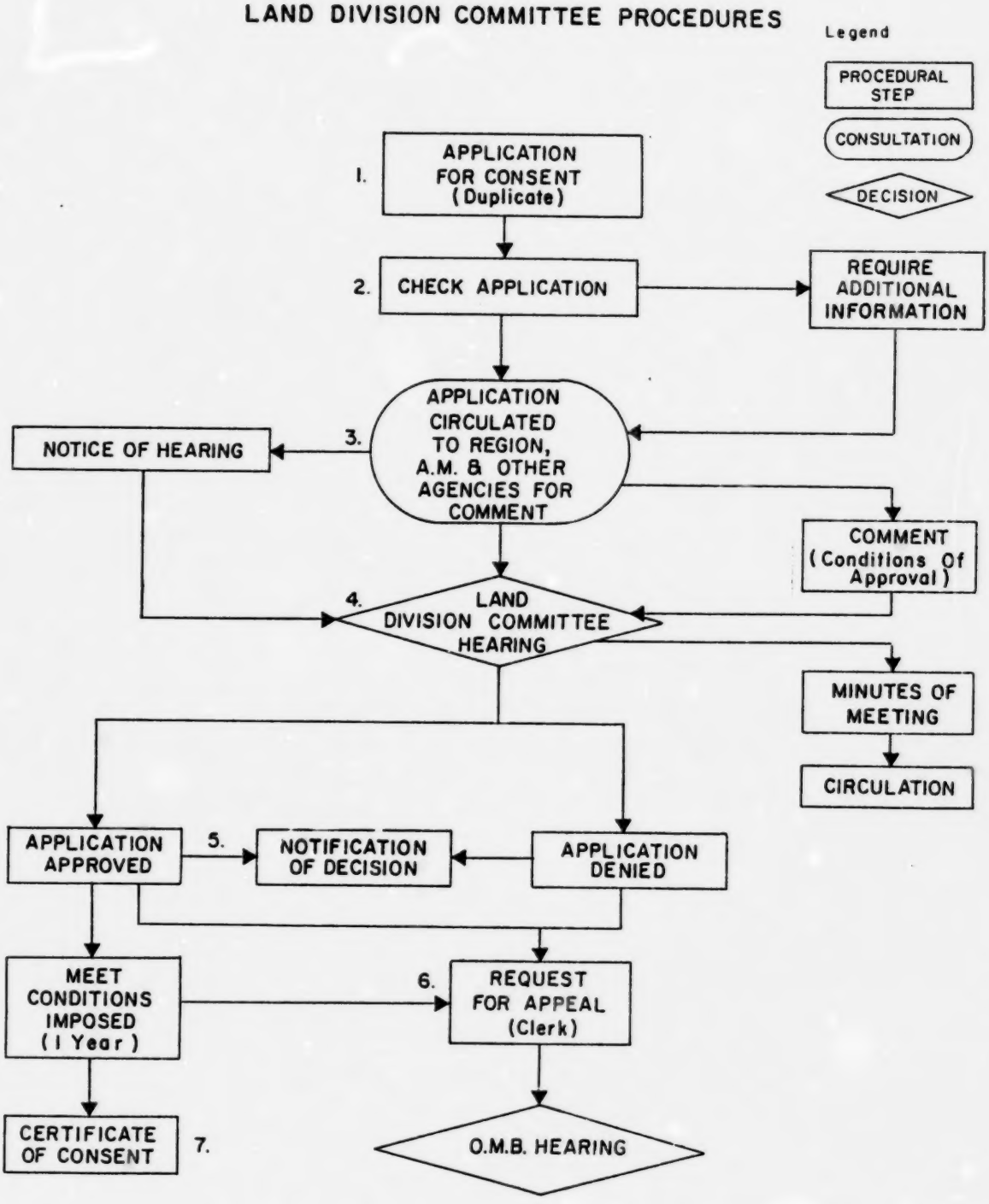
   - 2 copies of a survey plan certified by an Ontario Land Surveyer showing all buildings. (A survey plan is a requirement for Consent Application in the City of Hamilton but is an optional requirement for the other Area Municipalities in the Region.)

   - A fee of $175.00.

URBAN DOCUMENTATION CENTRE
RESEARCH UNIT FOR URBAN STUDIES
McMASTER UNIVERSITY
HAMILTON, ONTARIO

Figure C.1

LAND DIVISION COMMITTEE PROCEDURES



3. At least 14 days prior to the date the proposal is to be considered by the Committee, a request for written comments and a copy of the application form and plan are circulated to certain agencies and/or officials.

   Departments always circulated for comment include:

   - Regional Clerk;
   - Regional Engineering;
   - Regional Planning and Development Department (Land Use Section); and,
   - Area Municipal Clerk;

   Other possible departments and agencies contacted depend on location and type of proposal and include:

   - Conservation Authority(s);
   - Ministry of Transportation and Communications (M.T.C. Planning and Design Office);
   - M.T.C. District Engineer;
   - Niagara Escarpment Commission;
   - Hamilton-Wentworth Department of Health Services;
   - Ministry of Agriculture and Food;
   - Ministry of Housing (Parkway Belt Group); and,
   - Ministry of Natural Resources.

   Applications involving the City of Hamilton are also sent to:

   - City Clerk;
   - Building Commissioner;
   - Traffic Commissioner;
   - Treasury Department;
   - Regional Finance (Local Improvements);
   - City Engineer; and,
   - Regional Planning and Development Department (Director of Local Planning).

   Concurrent with sending out the requests for comments, the applicant (and/or the applicant's agent) is sent a notice of the hearing date, a copy of the application form and property sketch and a sign describing the application to be posted on the property in question.

4. Comments received from circulated agencies and interested persons are read. The applicant or his representative submit any materials or information in support or explanation of the proposal, and answer any questions the Committee might have.

The Committee either grants or refuses the application. The written decision of the Committee contains a brief description of the proposal, the reasons for the decision, any conditions (if the application is approved) and the last date on which an appeal to the Ontario Municipal Board may be filed.

5. Copies of the minutes are sent to the applicant, the Committee members, the Niagara Escarpment Commission and the Regional Planning and Development Department.

   Copies of the decision are sent to the applicant, the Regional Director of Revenue, the City Real Estate Director and all agencies or officials originally circulated.

6. The decision of the Committee may be appealed to the Ontario Municipal Board within thirty days from the date of the hearing. A notice of appeal including written reasons in support of the appeal may be filed by anyone receiving a copy of the decision.

7. The applicant has one year from the date of the notice of approval to meet whatever conditions are imposed, otherwise the application for consent is deemed refused. It is the responsibility of the applicant to provide proof to the Secretary of the Committee that the conditions have been fulfilled.

   Once all conditions are met, a "Certificate of Consent" is issued and then submitted by the applicant to the Registry Office.

C.2 Processing Time

The total time from application to registration is approximately two months.

C.3 Conditions of Approval

The Region's Land Division Committee requires, as a condition for all industrial severence approvals, that the owner of the property in question satisfy all requirements, financial and otherwise, of the area municipality.

A number of other conditions may also be required, depending upon the application and the comments of the area municipality including:

- that an agreement be entered into which is satisfactory to the Council of the Area Municipality, for the purpose of controlling the development and use of the subject parcel;

- that the owner obtain, if necessary any required changes in zoning or variances from the requirements of the zoning by-law;

- that the subject parcel be registered in the same name and title as any lands to which it is to be joined; and

- that the owner provide dedications, easements or other restrictions imposed at the request of either Regional Engineering or the Ministry of Transportation and Communications, or other commenting agencies (including the Ministry of the Environment, the Ministry of Natural Resources, the Ministry of Housing, Ontario Hydro, the Niagara Escarpment Commission, the Regional Health Services Department and the Conservation Authority having jurisdiction).

APPENDIX D

ZONING BY-LAWS

D. ZONING BY-LAWS

A zoning by-law defines the geographic limits of zones and the regulations on the erection of buildings and use of buildings and land within each defined zone. A zoning by-law can regulate the following:

- land use activities;
- the location, erection or use of buildings;
- the erection of buildings on lands that are unstable or unsuitable;
- height, bulk, location, size, floor area, spacing, character and use of building and type of construction; the minimum elevation of door, windows or other openings in building; and,
- the provision and maintenance of loading and parking facilities.

The Planning Act requires that all new zoning by-laws conform to both the Regional and area municipal Official Plans.

A rezoning would be required if there is a proposal to establish a use that is restricted in the applicable zoning district, to erect a building which does not comply with regulations of the zoning by-law, or to change any other zoning standard.

If a proposed change in zoning does not conform to the intent of the Official Plan then an Amendment to the Official Plan may also be required.

When considering a rezoning, the Area Municipal Council usually has regard to the following:

- conformity to the Area Municipal and Regional Official Plans;
- appropriateness of the use for the area and municipality as a whole;
- the need for the proposed use;
- the physically and environmentally fit, and
- consistency with the standards contained in the comprehensive by-law.

D.1 Process

The general process to amend a Zoning By-Law is shown in Figure D.1. Figure D.2 highlights the main requirements of the area municipalities. The steps shown in figure D.1 are summarized as follows:

Figure D.1

ZONING BYLAW AMENDMENT PROCESS

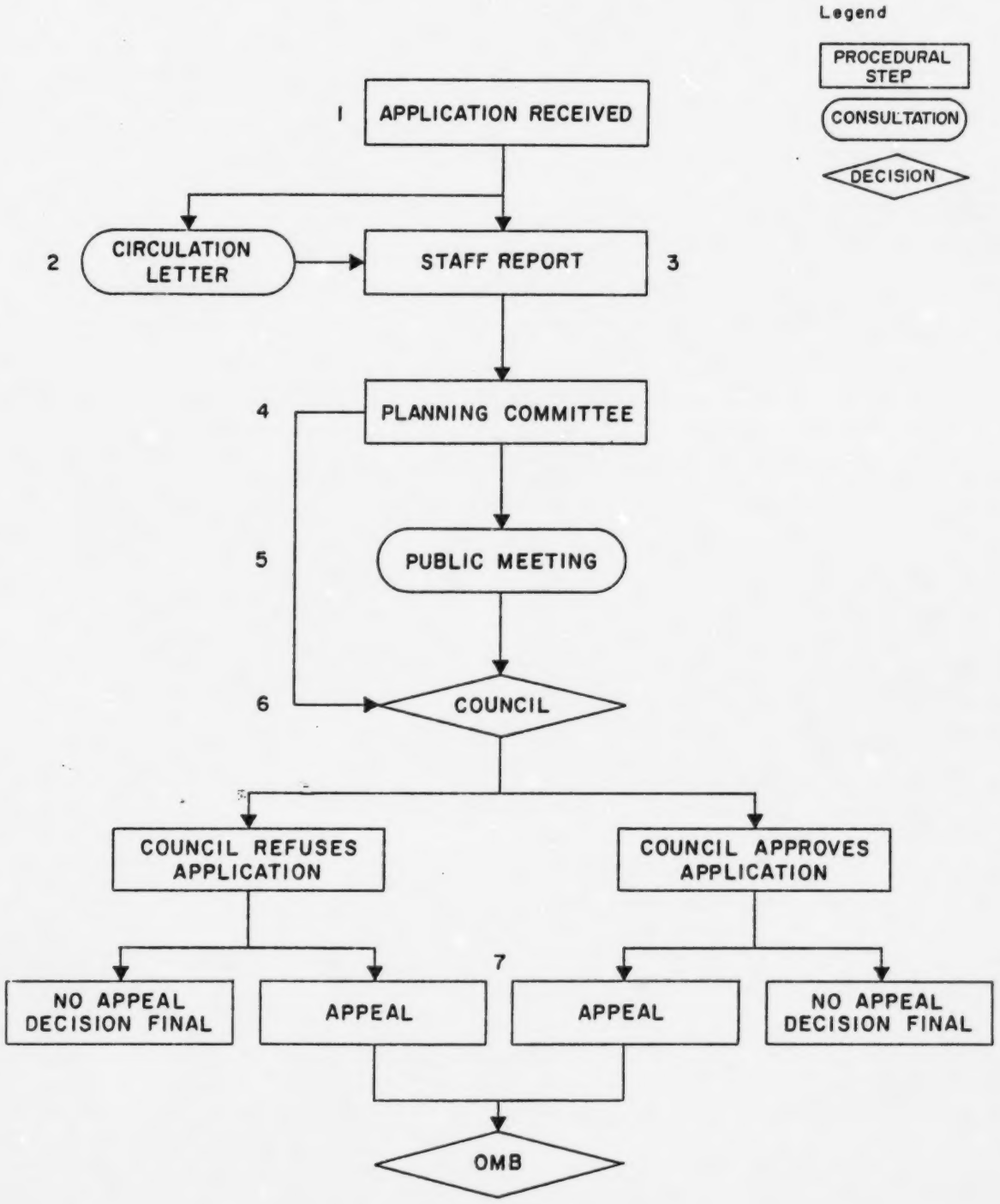


FIG. D-2

ZONING PROCESS AREA MUNICIPAL REQUIREMENTS

Area Municipality	Average Processing Time (Weeks)	Fee Structure	Application Requirements
ANCASTER	12-16	$750 Deposit Agreement*	Survey plan Large-scale detailed plan
DUNDAS	16-20	$500 Fee	Survey plan Large-scale detailed plan Optional
FLAMBOROUGH	8-12	$500 Deposit Agreement*	Survey plan Large-scale detailed plan (2 copies)
GLANBROOK	12-16	$750 Deposit Agreement*	Survey plan Large-scale detailed plan
HAMILTON	16-20	$115 fee	Survey plan (2 copies) Large-scale detailed plan
STONEY CREEK	12-16	$1,000 Deposit Agreement* plus additional $500. If objections $1,500 if O.M.B. hearing.	Large-scale detailed plan

* A deposit agreement involves a cash deposit to be used by the municipality to cover the cost of processing the application. Should the cost of processing be less than the deposit, the remainder is refunded to the applicant.

1. A complete application must be received by the Planning Department along with:

   - a survey plan or sketch based on an Ontario Land Surveyor's description of the subject lands showing the location, size, and use of all buildings and structures on the owner's lands and on all adjacent properties;

   - a large-scale detailed plan showing the location and type of all buildings, the location of parking and loading spaces, driveways, landscaping areas, planting strips, and other uses of land; and,

   - a fee or in some cases a deposit agreement from which administrative and legal costs are deducted.

2. The proposed Zoning By-Law Amendment is circulated for comment to various departments and agencies including:

   - Planning Department of Area Municipality;
   - Engineering Department of Area Municipality;
   - Fire Department of Area Municipality;
   - Regional Planning and Development Department;
   - Regional Engineering; and,
   - Appropriate Conservation Authority.

   Other agencies which may be contacted depending on the size, type, and location of the project include:

   - Niagara Escarpment Commission;
   - Ministry of Transportation and Communications;
   - Ministry of Natural Resources; and,
   - Ministry of the Environment.

3. Once the comments are received, a technical report is prepared for the Planning Committee or Council depending on the Area Municipality.

4. The Planning Committee discusses the application and planning report with the applicant and formulates a recommendation for Council. If the recommendation is favourable, Planning staff are instructed by the Committee to draw up a draft Zoning By-Law Amendment, which is circulated for comment back to the same departments and agencies contacted in Step 2.

5. Notice of a public meeting is sent to the applicant, all departments and agencies involved, and all property owners within 400' (120 metres) of the subject land at least 30 days prior to the meeting date. The public meeting may be overseen by either the Planning Committee or Council. If objections or questions that require further research are raised at the meeting, a second public meeting may be scheduled to allow Municipal staff to address these concerns.

6. The Zoning By-Law goes to Council for final approval.

7. The applicant or any interested party, can appeal Council's decision to the O.M.B.

D.2 Timing

The average processing time for rezonings ranges from 8 to 20 weeks, depending on the area municipality.

APPENDIX E
MINOR VARIANCES

E. MINOR VARIANCES

A minor variance from the provisions of the by-law may be granted by an Area Municipal Committee of Adjustment if a proposal requires only a minor amendment to the by-law. Minor variances are authorized for land, buildings, and structures within a zone when in the opinion of the Committee, the general intent and purpose of the by-law and the Official Plan are maintained. Generally, minor variances adjust: the land uses allowed in the zoning designation applicable to the proposal, or building setbacks, heights or other site specific requirements.

When reviewing an application the Committee of Adjustment usually ensures the following before granting a minor variance:

- conformity to all applicable official plans;
- appropriateness to official plan policies for the area and municipality as a whole;
- need for the proposed use;
- physical and environmental suitability, and;
- consistency with the zoning by-law.

As with Council when approving rezoning, the Committee of Adjustment may attach conditions to the minor variance which must be fullfilled by the applicant.

E.1 Process

The process by which a Minor Variance may be obtained is shown in Figure E.1 and is described as follows:

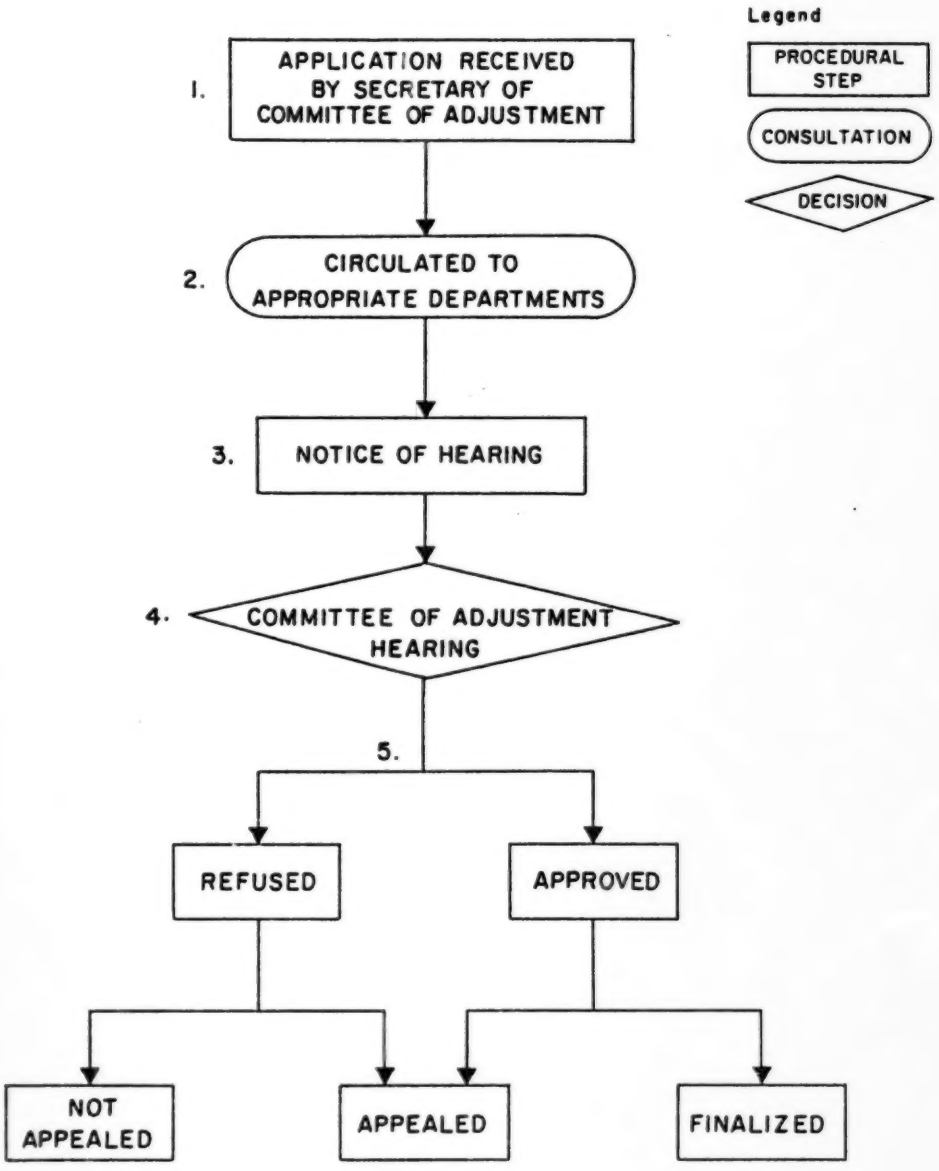
1. A completed application form must be submitted to the Office of the Committee of Adjustment (C.O.A.), the Building Department, or the Clerk's Department depending on the Area Municipality. The application must be accompanied by a plan showing:

    - the dimensions of the subject lands and all abutting lands; and,
    - the location, size, and type of all buildings and structures on the subject and abutting lands.

In some municipalities, the plan must be signed by an Ontario Land Surveyor. Under some circumstances, construction drawings must also be submitted.

Figure E.1

THE MINOR VARIANCE PROCESS



2. The Secretary-Treasurer of the C.O.A. usually circulates a copy of the application along with notice of a C.O.A. hearing to appropriate departments and agencies of the Area Municipality, Region, and Province including:

   - Building Department;
   - Clerk's Department;
   - Area Municipal Planning Department; and,
   - Regional Planning and Development Department.

   It may occasionally include:

   - Area Municipal Engineering Department;
   - Fire Department;
   - Hamilton-Wentworth Health Services;
   - Provincial Assessment Office;
   - Regional Clerk;
   - The appropriate Conservation Authority with jurisdiction;
   - Ministry of Transportation and Communications, (Planning and Design Office); and,
   - Ministry of Transportation and Communications, (District Highway Engineer).

3. The hearing of the Committee of Adjustment must be held within 30 days from the time the application is received by the Secretary-Treasurer of the Committee. Notice of the time and place of a hearing is mailed to the applicant and all assessed property owners within 200' (60 metres) of the subject lands.

4. At the public hearing the Committee hears the applicant and any other person who desires to be heard in favour of or against the application. For any C.O.A. decision to be valid, it must have the support of the majority of the members (usually two out of three).

   Not later than ten days after the hearing, one copy of the decision together with notice of the last day for an appeal is mailed to:

   - the applicant;
   - each person who appeared at the hearing, or who filed with the Secretary-Treasurer a written request for notice of the decision, and,
   - the Ministry of Housing, if requested.

5. The Applicant, the Minister, or any person with interest in the matter may within 30 days of the decision appeal to the Ontario Municipal Board, by serving notice of appeal to the Secretary-Treasurer of the C.O.A.

If within 30 days no notice of appeal is given, the decision is final and the Secretary-Treasurer notifies the applicant and files a copy of the decision with the Clerk of the Municipality in which the application is located.

E.2 Timing

The minor variance process generally takes between six and eight weeks from the submission of a completed application to a final decision.

APPENDIX F

SITE PLAN CONTROL

F. SITE PLAN CONTROL

Site Plan Control is a means of ensuring that a proposed development meets community standards of design, landscaping and appearance and that the opportunities and constraints of the site are recognized. The Site Plan control provisions of the Planning Act, (1983) (sec. 40) gives a municipality the authority to regulate site specific concerns over the construction, erection, alteration or placement of a building or structure. These site specific concerns include:

- building siting;
- urban design of project;
- pedestrian and vehicular access;
- grading;
- buffering;
- landscaping; and,
- road widening.

In Hamilton-Wentworth all industrial property and development proposals are subject to site plan control, except in Hamilton and Dundas. In the City of Hamilton only the Prestige Industrial districts (M-11, M-12, M-13, M-14 and M-15) are subject to site plan control. In the Town of Dundas, industrial additions in the light Industrial (M1) and General Industrial (M3) Districts, having a gross floor of 92 m^2 or less and public Industrial developments (M4) are exempt from site plan control.

When approving a development or redevelopment, or addition to development within a site plan control area Council must approve plans showing the location of all buildings and structures to be erected as well as all related facilities and works.

In addition, the municipality may require that the applicant submit for approval drawings showing plan, elevation and cross-section views for each building or structure erected. These drawings are required to show only matters related to:

- massing and conceptual design of proposed buildings;
- relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public access; and,
- the provisions of interior walkways, stairs, elevators, and escalators to be used by the public, as well as open spaces and interior walkways in adjacent buildings.

Council may place certain conditions on site plan approval depending on the nature and location of the proposal. These conditions include requirements for parking and loading areas, road widenings, walkways, fences and grading.

F.1 Process

The process is shown in Figure F.1. Figure F.2 highlights the requirements of the area municipalities. The steps shown in Figure F.1 are summarized as follows:

1. An application form is filled out and submitted to the Area Municipal Planning Department along with copies of:

   - A survey plan
   - A preliminary detailed site plan
   - A fee or deposit agreement

2. Copies of the site plan are usually circulated to the Building, Engineering and Fire Departments of the Area Municipality for comment. Where Regional or Provincial interests are likely to be involved, the circulation list may include:

   - Regional Engineering Department
   - Regional Planning Department
   - Regional Health Services Department
   - Ministry of Transportation and Communications
   - Conservation Authority with jurisdiction

   Planning staff inspect the site and review the comments from other departments and agencies. Possible changes to the site plan in such areas as site design, lot and buildings layout, landscaping and parking, are discussed with the applicant. A technical report is then prepared for presentation to the Planning Committee. A copy of this report is given to the applicant along with a notice of the time and date of the meeting at which the Site Plan Agreement will be discussed.

3. The Planning Committee reviews the plans and recommendations and may question the applicant and staff about the proposed agreement. The Committee then recommends that Council either approve or refuse the Site Plan Agreement, with or without conditions.

4. Council may approve or refuse the recommendation, amend the conditions already imposed by the Planning Committee, or create new conditions.

Figure F. 1

THE SITE PLAN APPROVAL PROCESS

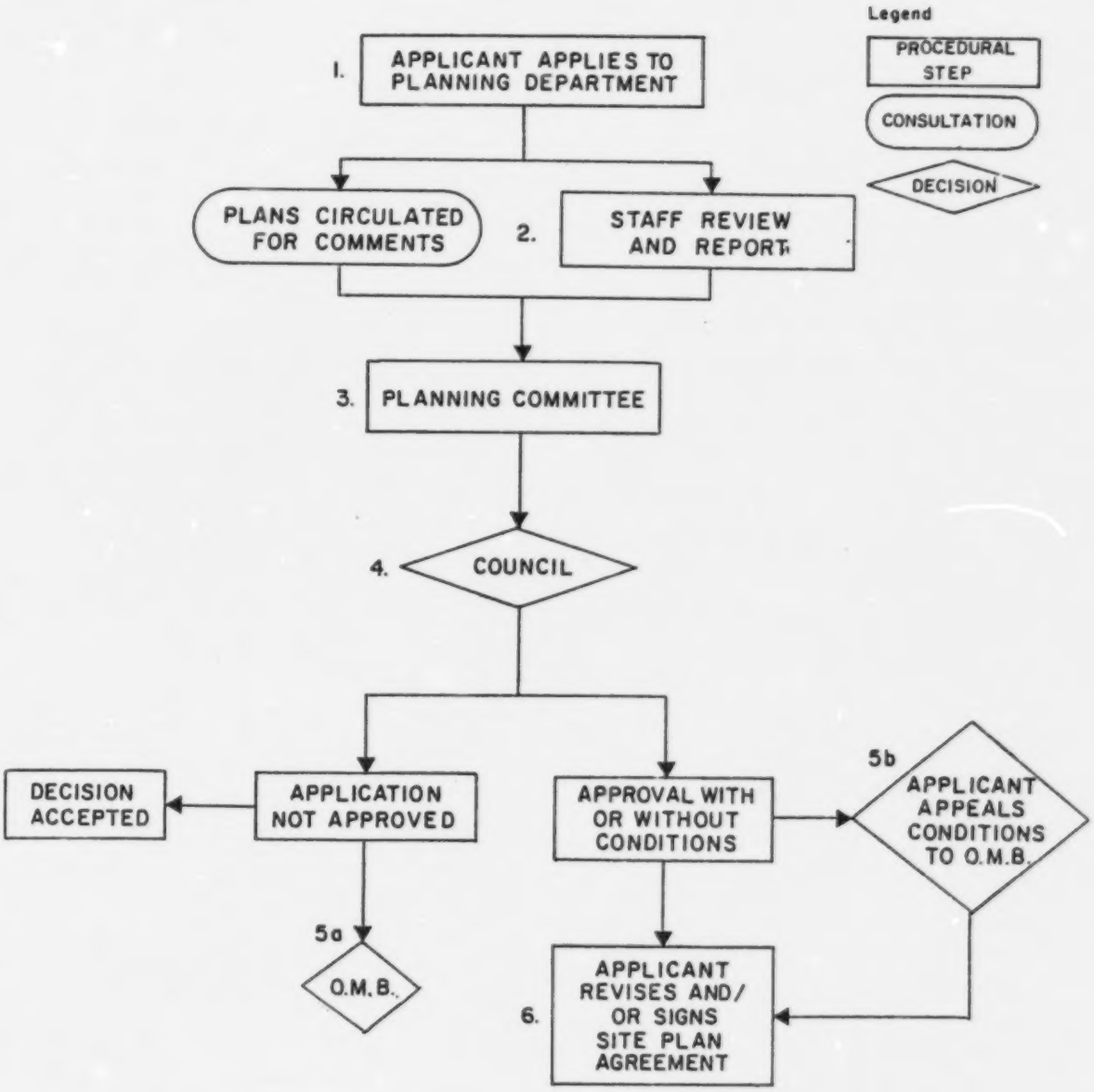


FIG. F-2

SITE PLAN CONTROL PROCESS - AREA MUNICIPAL REQUIREMENTS

Area Municipality	Average Processing Time (Weeks)	Fee Structure	Application Requirements
ANCASTER	6- 8	$500 Deposit Agreement*	Written legal description of lands or a survey Detailed preliminary site plan Grading/drainage plan Landscaping/vegetation plan
DUNDAS	6- 8	$410 Fee	2 Copies of application form Detailed preliminary site plan with elevations Landscaping plan 4 Copies of a survey
FLAMBOROUGH	6- 8	$150 + material costs, * engineering costs, legal costs	3 Copies of detailed preliminary site plan 3 sets of floor and elevation plans (new buildings) Survey List of mortgagess Copy of the deed
GLANBROOK	6- 8	$500 Deposit	4 Copies of detailed preliminary site plan with lot grading Perspective drawing Elevation drawing Cross section drawing
HAMILTON	6- 8	$55 fee	3 Copies of detailed preliminary site plan 4 Copies of survey
STONEY CREEK	3- 4	No charge	7 Copies of detailed preliminary site plan 7 Copies of survey Conceptual plan 2 Copies of landscaping plan

* A deposit agreement involves a cash deposit to be used by the municipality to cover costs of processing the application. Should the cost of processing be less than the deposit, the remainder is refunded to the applicant.

5. The applicant is then advised of the decison.

   (a) If it is a refusal, the applicant may appeal to the Ontario Muncipal Board by sending written Notice of Appeal to the Secretary of the O.M.B. and the Clerk of the Area Municipality.

   (b) If the Site Plan Agreement is approved the applicant will also be notified of any required conditions. The applicant must either comply with these conditions or appeal the conditions to the O.M.B.

6. Approval of the Site Plan is followed by the applicant's signing of a formal agreement which is registered on the title of the land. This ensures that the agreement will continue to apply to the development even if the land is sold.

   The applicant is then required to submit copies of the executed final plan for distribution to the Municipality's Building, Engineering and Planning Departments. These plans are placed on file for use in monitoring the project.

   In most cases a letter of credit must also be submitted to the Clerks Department. This document is a deposit which ensures that conditions in the Site Plan Agreement are carried out. When work is completed, site inspections by the Building, Engineering, Planning and Fire Departments are required before the deposit is returned to the applicant. The Site Plan Agreement then becomes a Maintenance and Use Agreement and periodic inspections may be carried out by the various muncipal departments to ensure compliance.

F.2 Timing

The average processing time for applications for site plan agreements is between 3 to 8 weeks depending on the Area Municipality (see Figure F.2).

F.3 Conditions of Approval

The Planning Act allows a municipality to attach certain conditions to the approval of site plans which may include requirements for:

- highway widenings;
- access to and from lands;
- off-street vehicular loading and parking facilities;
- walkways and walkway ramps;
- facilities for lighting;

- o walls, fences, hedges, trees, streets, or other ground covers;
- o garbage storage;
- o easements for water courses, ditches, land drainage works, and sanitary sewer facilities; and,
- o grading and water drainage.

In addition, the municipality may require the applicant to enter into agreements with the municipality to ensure the provison of any work or facility requested and the maintenance of these facilities. This agreement is registered against the land title to which it applies, to ensure that the conditions of approval are met.

The requirements for industrial proposals vary depending on the location and nature of the proposals.

APPENDIX G

NIAGARA ESCARPMENT DEVELOPMENT CONTROL PERMITS

G. NIAGARA ESCARPMENT DEVELOPMENT CONTROL PERMITS

Within the Niagara Escarpment Development Control Area Development Permits from the Niagara Escarpment Commission (N.E.C.) are required to ensure that development is compatible with the natural environment. Permits must be obtained prior to the issuance of any building or development permit by the Municipality.

The Clappison Corners Industrial Business Park is the only existing large-scale urban industrial area in Hamilton-Wentworth within the Niagara Escarpment Commission Development Control Area. Industrial uses are permitted but subject to a number of requirements regarding visual compatibility, setbacks, screening, provision of public access to the face of the escarpment, and other environmental concerns.

Zoning by-laws are not in effect in that area subject to development permits. However, all other development control procedures (i.e. Site Plan Control, Subdivision Approval, Building Permits, etc.) still apply and all permits and approvals (i.e. Fire Department, Health Department, M.T.C. Regional Setbacks, etc.) must be obtained before a Development Permit will be issued.

G.1 Process

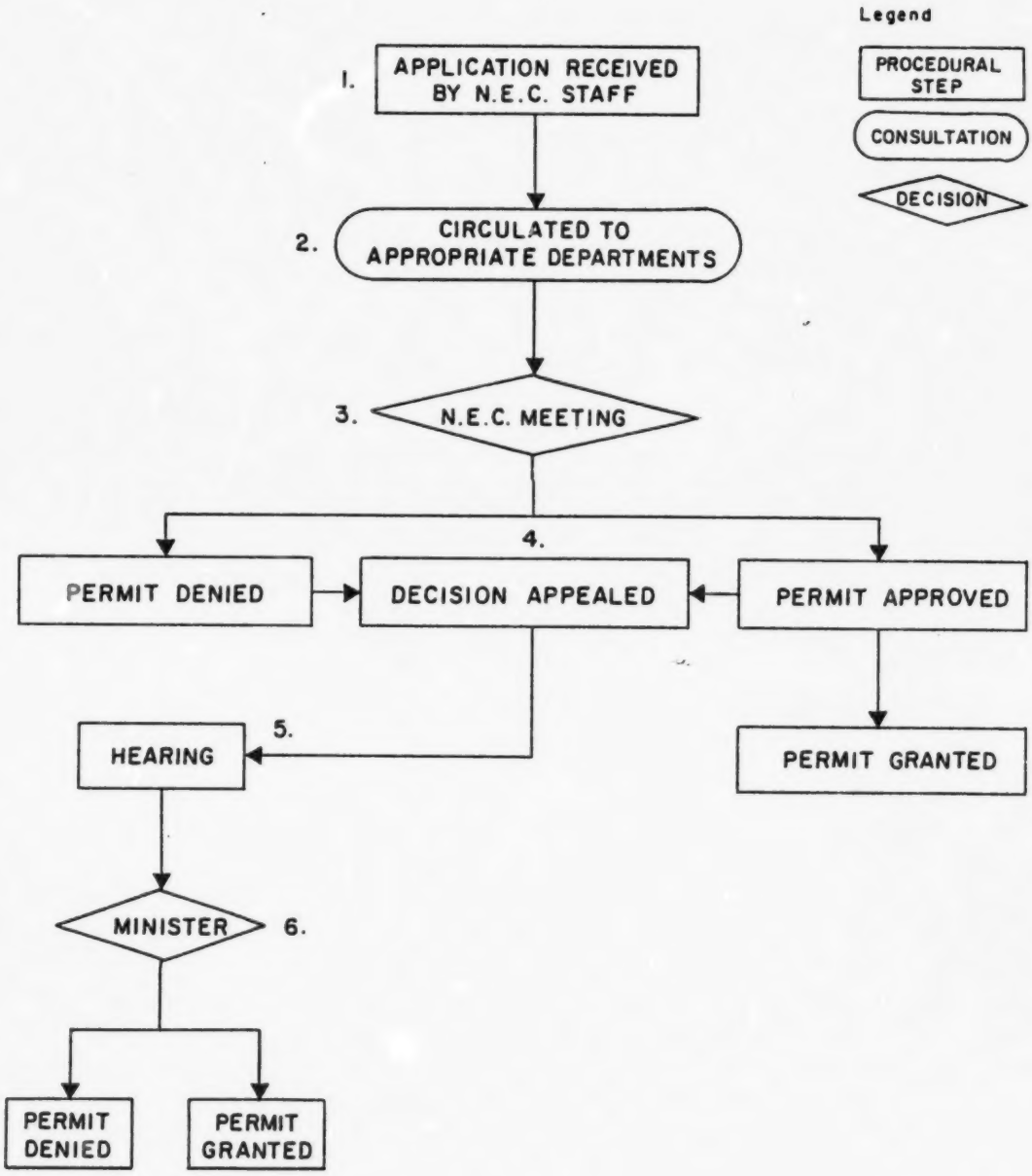
The N.E.C. Development Permit Process is shown on Figure G.1 and is described as follows:

1. The application form must be completed and submitted along with:

   - a site plan; and,
   - a location map.

Figure G.1

THE N.E.C. DEVELOPMENT PERMIT PROCESS



2. The application is circulated for comment to the area municipality and other relevant agencies and departments including:

   - Planning Department of the Area Municipality;
   - Engineering Department of the Area Municipality;
   - Regional Planning and Development Department;
   - Regional Engineering; and,
   - The appropriate Conservation Authority.

   Depending upon the location, size, and type of development, other departments and agencies may be contacted. These include:

   - Ministry of Transportation and Communications;
   - Ministry of Natural Resources;
   - Ministry of Agriculture and Food; and,
   - Regional Department of Health Services.

   A report is then prepared by the N.E.C. staff. The applicant is advised as to whether the staff recommendation is to approve or refuse the permit.

   An orange poster is placed on the proposed site serving notice that an application for a Development Permit is before the N.E.C. This sign briefly describes the proposal and gives the address of the N.E.C. where additional information may be obtained.

3. The N.E.C. review the staff report and make a decision at the next of its bi-monthly meetings. This meeting may be attended by anyone, but members of the general public are not permitted to speak except by special permission of the Chairman. The time for public participation is at a subsequent public hearing should the decision be appealed.

4. Notice of the N.E.C.'s decision is mailed to all property owners within 400 feet (120 metres) of the proposed development. They, along with the applicant, have fourteen days from the date the notice of decision was mailed in which to launch an appeal to the Ministry of Housing. Should the N.E.C.'s decision be to grant a permit and no appeal is undertaken, the permit will be issued. Most applications are granted without an appeal.

5. If, however, an appeal is requested, a hearing is usually held within four to six weeks from the notice of appeal. The hearing is presided over by a Ministry of Municipal Affairs hearing officer, who makes a recommendation to the Minister.

6. The Minister makes the final decision.

G.2 Timing

Providing there is no appeal, the Development Permit Process usually takes from eight to twelve weeks to complete. If there is an appeal, the decision may take up to twenty weeks.

G.3 Conditions of Approval

For any type of industrial proposal within its jurisdiction, there are a number of conditions that the Niagara Escarpment Commission (N.E.C.) will typically impose. These conditions must be met before the issuance of a Development Permit and include that:

- the applicant enter into a Site Plan Agreement with the local municipality;
- Commission staff approve detailed landscape plans;
- Commission staff approve final building plans; and,
- the N.E.C. decision becomes null and void if a Development Permit is not issued within a given period of time (usually two years).

The N.E.C. generally imposes the following conditions on the applications:

- non-fulfillment or breach of conditions renders the permit null and void;
- the Permit must be granted before a building permit or other permits relating to development are considered to be in force;
- the Permits expire two years from their date of issue unless development has commenced;
- the development can take place only in accordance with the submitted site plan; and,
- lot grading of existing contours and the removal of trees other than those which are dead or diseased can only take place as noted on the application and as approved by the Commission, except that which is required for construction or development.

APPENDIX H
BUILDING PERMITS

H. BUILDING PERMITS

A building permit is required when: constructing a new building or structure; altering, renovating or adding to a building, excavating or constructing a foundation; installing wiring or plumbing; or installing heating and cooling equipment. The Building Permit process ensures that adequate construction techniques and materials are used in accordance with the Ontario Building Code and local building code by-laws.

An application for building permit must be in compliance with the appropriate Official Plans and the Zoning by-laws. If not, the applicant must receive approval for rezoning, minor variance, and/or an Official Plan Amendment before the application can be dealt with. If the proposal is subject to site plan control, an application for site plan approval can be processed concurrently with the building permit application.

H.1 The Process

The general process for building permits is shown in Figure H.1. Figure H.2 highlights the requirements of the area municipalities and shows the processing time estimate based on the average of recent applications. The steps shown in Figure H.1 are summarized as follows:

1. The applicant submits an application to the appropriate area municipal Building Department for a Building Permit. Along with the application, municipalities may require:

   - o structural plans signed and sealed by a professional Architect and Engineer;
   - o a site plan/lot grading plan;
   - o a drainage plan; and/or,
   - o a survey plan.

   Certain special requirements or approvals may be requested from the applicant along with the application for a building permit. These requirements will vary, depending on the site, location, and type of proposal, and may include:

   - o Ministry of Transportation and Communications and/or Regional setback and entrance permits;
   - o M.T.C. building land use permit, encroachment permit, and location sign permit;
   - o Department of Transport Approval (Airport Area);
   - o Engineering sewer and water permits;

Figure H.1

THE BUILDING PERMIT PROCESS

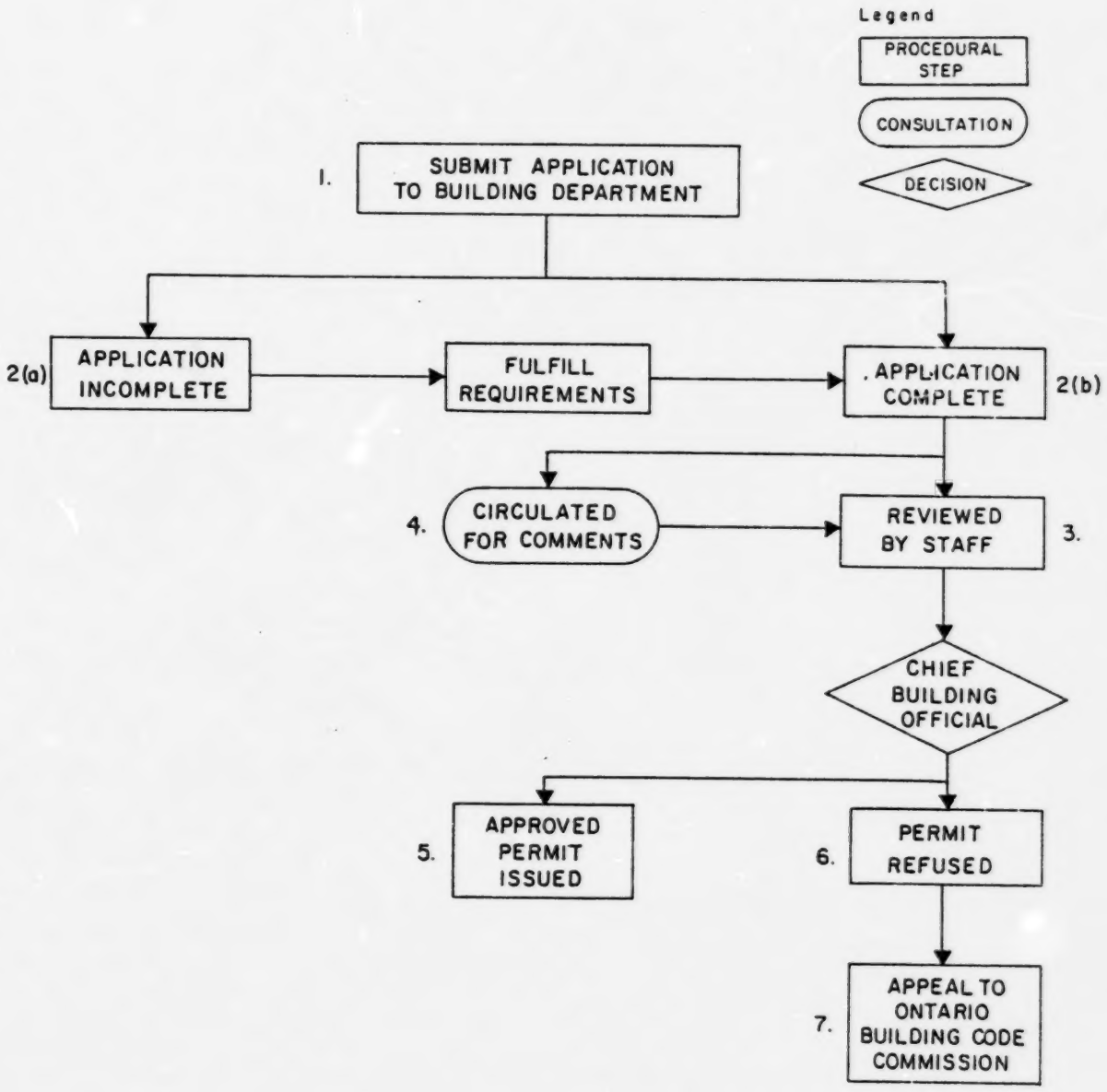


FIG. H-2

BUILDING PERMITS - MUNICIPAL REQUIREMENTS

Area Municipality	Estimated Processing Time	Building Permit Fee Structure	Application Requirements
ANCASTER	1/2 Week	Based upon number of inspections. Charge of $40/inspection. (Average 2 inspections /week during construction.	2 Sets of drawings 1 Site Plan
DUNDAS	3-4 Weeks	$7/1st $1,000 of estimated construction costs. $5/each additional $1,000 of estimated construction costs. Heating permit - $15 Plumbing Permit - $6 + $3/fixture Drainage Permit - $6 + $3/inch of I.D.	2 Sets of drawings Lot grading plan
FLAMBOROUGH	3 Weeks	$12/1st $1,000 of estimated construction costs $6/each additional $1,000 of estimated construction costs. Heating Permit - $15 Plumbing Permit - $3/Fixture + $6/stack + $4/each additional stack	2 Sets of drawings 1 Site plan/lot grading plan
GLANBROOK	4 Weeks	$4/$1,000 of estimated construction costs (minimum charge of $16)	2 Sets of drawings Possibly survey Possibly drainage plan
HAMILTON	6-8 Weeks	$25 plus $9/$1,000 of estimated construction costs to $20 million $4/$1,000 of estimated construction costs between $20 million and $50 million $2/$1,000 of estimated construction costs	2 Sets of drawings Plot plan based on Ontario Land Surveyors Survey
STONEY CREEK	4-5 Weeks	$7/$1,000 Construction costs plus $20 plumbing fee	2 Sets of drawings 5 Extra copies of site plan

- o Conservation Authority construction approval;
- o Regional Health Services Department septic system approval;
- o Ministry of Labour approval of site plans;
- o Niagara Escarpment Commission development permit; and/or,
- o Ontario Hydro electrical plan approval.

2. The application is reviewed by Building Department staff who determines whether the application is complete and if it conforms to Official Plans and Zoning by-laws.

   (a) If the application is incomplete and additional information, approvals, or permits are required before it can be further processed, it is then the responsibility of the applicant to obtain the required approvals and permits. If the application does not conform with the area municipality's Zoning By-Law, the applicant must seek approval for one or more of the following before the Building Permit can be processed:

   - o minor variance;
   - o rezoning; and/or,
   - o Official Plan Amendment.

   If the area in which the proposal is located is under site plan control, an application for site plan approval must also be initiated before the processing of the building permit application can continue.

   (b) If the application conforms to the area municipal Official Plan and Zoning By-Laws, and has received all necessary approvals and permits, it then proceeds.

3. Once complete, the application is reviewed in detail by Building Department staff to ensure that it complies to Ontario Building Code regulations and Area Municipal building codes. If revisions are necessary, the applicant is contacted.

4. The application is also circulated to the following Departments for comment:

   - o Fire Department;
   - o Regional Engineering Department;
   - o Regional Planning and Development Department;
   - o Area Municipalities' Planning Departments; and,
   - o Regional Health Services Department.

Based on the comments from these agencies the Building Department may request the applicant to make changes to his application before a Building Permit is issued.

5. When all appropriate permits, approvals, and comments have been received and the Building Department is satisfied that all applicable regulations have been met, the Chief Building Official will approve the application and instruct the Building Department staff to issue a permit.

6. If the application does not meet the requirements of the Ontario Building Code and the Area Municipal building by-laws the Chief Building Official will deny the applicant a Building Permit.

7. The applicant can appeal the Building Department's interpretation of the Building Code to the Ontario Building Code Commission. The applicant must attend a Hearing of the Commissioner, which will rule on the interpretation.

H.2 Timing

The average processing time for Building Permits varies between half a week and 8 weeks depending on the Area Municipality and the nature of the proposal.